

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ZITO FAMILY TRUST; THOMAS J.
ZITO, SOLE TRUSTEE,

Plaintiffs,

v.

JOHN HANCOCK FINANCIAL
SERVICES, INC., et al.,

Defendants,

No. 2:21-cv-2098 DAD DB PS

ORDER

Plaintiff Thomas Zito is proceeding in this action pro se. This matter was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). On September 7, 2022, defendant John Hancock Life Insurance Company filed a motion to dismiss and noticed the motion for hearing before the undersigned on October 14, 2022, pursuant to Local Rule 302(c)(21). (ECF No. 31.) Pursuant to Local Rule 230(c) plaintiff was to file an opposition or a statement of non-opposition to defendant's motions not less "than fourteen (14) days after the motion was filed." Plaintiff, however, has failed to file a timely opposition or statement of non-opposition to the motion.

The failure of a party to comply with the Local Rules or any order of the court "may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of the Court." Local Rule 110. Any individual representing himself or

1 herself without an attorney is bound by the Federal Rules of Civil Procedure, the Local Rules, and
2 all applicable law. Local Rule 183(a). Failure to comply with applicable rules and law may be
3 grounds for dismissal or any other sanction appropriate under the Local Rules. Id.

4 In light of plaintiff's pro se status, and in the interests of justice, the court will provide
5 plaintiff with an opportunity to show good cause for plaintiff's conduct along with a final
6 opportunity to oppose defendant's motion.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. Plaintiff show cause in writing within fourteen days of the date of this order as to why
9 this case should not be dismissed for lack of prosecution;

10 2. The October 14, 2022 hearing of defendant's motion to dismiss (ECF No. 31) is
11 continued to **Friday, November 18, 2022, at 10:00 a.m.**, at the United States District Court, 501
12 I Street, Sacramento, California, in Courtroom No. 27, before the undersigned¹;

13 3. On or before **November 4, 2022**, plaintiff shall file an opposition or statement of non-
14 opposition to defendant's motion²; and

15 ///

16 ///

17 ///

18 ¹ Parties shall appear at the hearing either telephonically or over video conference through the
19 Zoom application (which is free and must be downloaded to your computer or mobile device
20 prior to the hearing). Parties proceeding in propria persona, on his or her own behalf, shall
21 contact Mamendella York, the courtroom deputy of the undersigned magistrate judge at (916)
22 930-4128, no sooner than 4 days prior to the noticed or continued hearing date but no later than
23 48 hours prior to the hearing, to arrange their appearance either telephonically or over video
24 conference. Counsel will receive an email containing the necessary appearance information and
25 must notify the courtroom deputy no later than 48 hours prior to the hearing to elect to appear
26 either telephonically or over video conference. The Zoom ID Number and password are
confidential and are not to be given to anyone. Persons granted remote access to these
proceedings, whether by Zoom or by telephone, are reminded of the general prohibition against
photographing, recording, and rebroadcasting of court proceedings. Violation of these
prohibitions may result in sanctions, restricted entry to future hearings, denial of entry to future
hearings, or any other sanctions deemed necessary by the court.

27 ² Alternatively, if plaintiff no longer wishes to pursue this civil action, plaintiff may comply with
28 this order by filing a request for voluntary dismissal pursuant to Rule 41(a) of the Federal Rules
of Civil Procedure.

1 4. Plaintiff is cautioned that the failure to timely comply with this order may result in the
2 recommendation that this case be dismissed.

3 DATED: October 7, 2022

/s/ DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE